IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 84 of 1998
With
CRIMINAL REVISION APPLICATION No. 85 to 87 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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S KRISHNA, ASSISTANT COMMISSIONER OF INCOME TAX - Applicant(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR BB NAIK for Applicant(s) : 1,
Mr SS Patel, Addl.PUBLIC PROSECUTOR for Respondent(s) : 1,
MR AB Munshi with Mr AJ PATEL for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 18/01/2007

ORAL (COMMON) JUDGMENT

1. The applicant has invoked revisional jurisdiction of this Court to challenge the common

order dated 28.11.1997 of the learned Addl. Sessions Judge, Ahmedabad, in Revision Applications preferred by the State and the original accused persons. The petitioner claims to be the original complainant and important witness in the criminal cases, pending since the year 1994 wherein the alleged offence under the provisions of Bombay Prohibition Act are being tried at the instance of the present applicant. Learned counsel, Mr B.B. Naik vehemently argued that even as the petitioner had earlier approached this Court by way of Criminal Revision Applications No. 32 and 33 of 1997 and the direction dated 10.4.1997 was issued by this Court to the learned City Sessions Judge before whom the aforesaid revision applications were pending, that court had not complied with the directions by deciding the issue as ordered by this Court. It was, therefore, submitted that this Court was now required to decide whether, at the instance of the petitioner or otherwise, the trial court was required to proceed *denovo.*

2. Learned counsel, Mr A.B. Munshi appearing with learned counsel, Mr A.J. Patel for the respondents submitted that the impugned order could not be

quashed on the ground that it did not decide the issue in compliance with the directions of this Court because presumably, the issue was not raised and properly canvassed by the petitioner herein. He further submitted that the petitioner had no *locus standi* and revisional jurisdiction could not be invoked at his instance.

3. There was limited consensus to the extent that the alleged offences required to be tried summarily were unnecessarily hanging fire for all these years and resulting into proliferation of litigations. It was also conceded that import and effect of the impugned order has remained obscure even after about 9 years of pendency of the present proceedings on account of the fact that the copies of the original revision applications which were decided by the impugned order were not produced and even the orders which were under challenge in those revision applications were also not produced in this court. Learned counsel were at a loss to explain as to what was the effect of the impugned order. It however, could not be gainsaid that the trial court was required to be directed to now conclude the

proceedings as expeditiously as practicable, in accordance with law and after complying with the relevant provisions of sections 254, 311 and 326 of the Criminal Procedure Code.

4. Therefore, under the above facts and circumstances, the present revision applications are disposed with the direction that, the trial court shall proceed with the original criminal cases and conclude the proceedings, as far as practicable within a period of three months from the date of receipt of a copy of this order in accordance with law and more particularly keeping in view the relevant provisions of sections 254, 311 and 326 of the Code. The impugned order shall stand modified to the aforesaid extent and, subject to these observations, Rule is discharged with no order as to costs.

sd/-
[D. H. Waghela, J.]

msp